962; *Hunter* v. *City of Pittsburgh,* 207 U.S. 161; *Deane Hill Country Club, Inc.* v. *City of Knoxville,* 379 F.2d 321, 325 (6th Cir. 1967).

Moreover, petitioner's argument is spurious. It baldly contends that by permitting "the stranger" to enter the cause at the Appellate level, petitioner's due process rights were denied. But, the motion to dismiss the appeal with supporting brief was duly presented to the Illinois Supreme Court and served upon the State's Attorney of Cook County. The State's Attorney represented the people of the State of Illinois, including the petitioner herein, and had complete control over the Quo Warranto proceedings as to whether the appeal would be prosecuted or dismissed. See *The People* v. *Wood,* 411 Ill. 514, 522. He had more than adequate time to file a response if he chose to do so. The fact that he did not do so, does not constitute a denial of procedural due process or destroy the validity of an order entered in such an appeal.

Moreover, the Illinois Supreme Court had ample authority under former section 92 to allow new parties to be added and "give any judgment and make any order that ought to have been given or made." This includes the dismissal of an appeal for the reasons specified in the motion or even on that Court's own motion. See Nichols Illinois Civil Practice Act, Vol. 6, Section 6340, p. 432; *LaSalle National Bank, et al.* v. *City of Chicago,* 3 Ill. 2d 375; *City of Highland Park* v. *Gail,* 276 Ill. 24, 26. Certainly this is true of a Quo Warranto proceeding where the court has the power to deny the remedy on the basis of laches or "where the rendition of a judgment of ouster would not be in the public interest, or serve any good end or purpose." *People* v. *Wilson,* 20 Ill. 2d 568, 578-579. *People ex rel. Lindsey* v. *Board of Education,* 3 Ill. 2d 159, 168.

Moreover, even if we assume an error in dismissing the 1961 appeal, which we do not, still petitioner has failed to prove a due process violation. An appellate review is not a requirement of due process even in criminal cases. *Griffen* v. *Illinois,* 351 U.S. 12, 18. To be valid a judgment need not be free from error. If whenever a judgment were called in question, the Court in the proceeding would review the matter previously adjudged to determine whether there had been error, a judgment would have no finality. Immortal litigation would overcome mortal man, and the sound principle of fundamental repose which underlies *res judicata* would be subverted. *United States* v. *Throckmorton,* 98 U.S. 61 (1878).

III.

To accept petitioner's arguments would render uncertain municipal annexation questions long since decided and open the door to the specious kind of attacks being raised in the case at bar. For example, relying principally upon documents which were never introduced in evidence, petitioners ask this Court to overturn annexations in effect for fifteen years, a Quo Warranto judgment in effect for twelve years which was based upon extensive pleadings and evidence, and in addition, to overturn the Illinois Supreme Court's decision to dismiss an appeal from that decision, in effect for ten years. These arguments are advanced without any explanation for a ten-year hiatus, and notwithstanding the fact that Joseph McGaw, the attorney for the City of Hickory Hills, signed an affidavit in 1961 which was submitted to the Illinois Supreme Court in support of the very motion to dismiss the Quo Warranto appeal which petitioner is now attacking.

These arguments also ignore the Bridgeview Answer and Plea in the 1959 *Quo Warranto* action (introduced by

Hickory Hills as Exhibit No. 4) (R.P. 160) which contained 7 pages of reasons why the doctrine of laches and estoppel barred the State's Attorney's *Quo Warranto* action in 1959. (Defendant's Exhibit 4, pp. 31-37). How much more compelling are such defenses after the passage of another ten years? Moreover, the arguments overlook the testimony of the engineer for Bridgeview that a special assessment for sewer and water lines is presently under way from Harlem Avenue to 83rd Street south to 95th Street, which will pick up and service the truck terminal property along with other properties. (RP 86), and the fact that Hickory Hills entered into a water and sewer contract with Bridgeview on March 31, 1964 which specifically in paragraph 2 recognized a portion of the territory now under attack as being a part of the Village of Bridgeview. (Ex. 2 to Amended Complaint, RC 68; RP 86, 87, 89, 90, 127).

We submit that the Illinois Appellate and Supreme Courts properly avoided a rehash of all the issues involved in the 1959 *Quo Warranto* proceedings and correctly ruled that the question of jurisdiction over south 77th Avenue was *res judicata* under said decision. As noted in *The People* v. *Wood*, 411 Ill. 514, 525:

> "The rules and limitations of *quo warranto*, which preclude appellant's right to review, are well justified when it is considered that the vesting of the power to *institute, dismiss or appeal a quo warranto* proceeding in the Attorney General or State's Attorney, where purely public rights are concerned, avoids the confusion and conflict which would occur if others could interfere at some state of the proceeding, or if concurrent control of the *quo warranto* remedy was to vest in other hands. Rules and principles evolved for, and having the effect of avoiding conflicts and in elim-

inating possible disputes between State officers and State entities in *quo warranto* actions, are founded upon practical considerations which should not be lightly overturned." (Emphasis added)

CONCLUSION

Based upon the foregoing, respondent, Village of Bridgeview, Illinois submits that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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